

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **VICE CHAIRMAN WALTER MCNUTT**, on March 10, 1999
at 3:18 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 26, HJ 27, 3/4/1999
Executive Action: HB 444

HEARING ON HJ 27

Sponsor: REPRESENTATIVE ROBERT STORY, HD 24, PARK CITY

Proponents: Mike Murphy, Montana Water Resources Assoc.

**John Youngberg, Montana Farm Bureau, also for Ron
DeYong, Farmers Union & Gary Mains, Electric
Cooperatives**

John Bloomquist, Montana Stock Growers

Opponents: NONE

Opening Statement by Sponsor:

REPRESENTATIVE ROBERT STORY, HD 24, This is a resolution dealing with the Pick Sloan power program on the Missouri Basin. I'll explain Pick Sloan a little bit. When the Federal Government went into the Missouri River Basin and put the dams on the Missouri, they did it for several reasons. One was for flood control and another was to control the water levels for barge traffic on the lower Missouri. They put a lot of good agricultural ground under water in the Dakotas and Montana.

One of the things that followed those dam building projects in 1944 was a program to help economic development and provide irrigation in areas where a lot of land had been lost because of inundation from the reservoir. They said they would take power generated from those hydro electric plants on those dams and provide it at very low cost to irrigation. That was the Pick Sloan program. One of the reasons they did that was because most of the irrigation in those river bottoms was ground deploy irrigation at very low cost to the irrigation projects. The only way to replace that irrigated land was to lift water out of rivers and reservoirs and put it on the land. Then you run into the cost of running pumps. Part of the Pick Sloan program was to provide power for pump stations to lift water and put it in canal systems and distribute it out to other lands. They did that at a fairly low cost of electricity.

Now the Federal Government is looking at changing those electrical costs. If they do, they'll make some of these projects fairly uneconomical. We're talking about the power used to provide water to the canals and to the irrigators, not the power used to distribute the water once it gets to a particular landowner. These power costs are a fairly significant cost per acre increase in irrigation. Under Pick Sloan, the Federal Government would pick up the wheeling or delivery costs of the electricity to pump stations. They don't want to do that anymore, so that cost would fall on the irrigators also. Between those two increased costs, it could raise the cost of delivering water to some of this irrigated acreage \$15 to \$20 an acre. With prices and costs the way they are, that's pretty prohibitive. You still have the cost of distributing the water on the land

that the irrigator has always borne. This resolution requests the Federal Government stays with its original power rates and picks up the wheeling costs.

Mike Murphy, Montana Water Resource Assoc., REP. STORY has done an excellent job in explaining the Pick Sloan program to you. There are about 2600 megawatts of power generated through the Pick Sloan program. Of that 2600, 400 megawatts were intended to be provided for irrigation. About 40 megawatts of power is actually being generated, 10% of the commitment, which amounts to approximately one to two per cent of the overall power generation. The Western Area Power Administration and Bureau of Reclamation are advocating elimination of that commitment made by Congress in response to the users associated with the Pick Sloan Power Project and Irrigation Development Programs.

The impact to the various projects varies. The cost at the lower Yellowstone Irrigation Project by Sidney, about 50,000 acres, would increase about \$15 per acre associated with this change advocated by the federal agencies. The most extreme costs would be the Savage Irrigation Project at around \$28 per acre. A very significant cost is associated with those changes. The Pick Sloan Irrigation Pumping Projects continue as they were intended to do to provide for economic development and stability within the basin. That was their intent and they are very effective in providing that stability in eastern Montana.

Pick Sloan projects were built on the firmest of public benefit from irrigation and power generation. A very specific provision of the whole program was "water to be elevated to the irrigated acres at a cost based upon the ability to pay". That ability to pay hasn't improved much at all. In addition, previous solicitors' opinions state that a rate change such as proposed would probably require Congressional approval. We feel that Western Area Power Administration and the Bureau of Reclamation should be encouraged to continue to provide for irrigation projects and power allocations as per Congressional intent. This is really the last semblance of Pick Sloan commitments, most of which were never really realized and we encourage your support.

John Youngberg, Montana Farm Bureau urges your passage of **HJ 27**. This is simply urging the Government to follow through with a promise that was made by Congress in 1944.

John Bloomquist, Montana Stock Growers, Us, too!

Mike Murphy, was asked by **Ron DeYong, Montana Farmers Union** and also **Gary Wayne** with **Montana Electric Coops** to indicate their support.

{Tape : 1; Side : A; Approx. Time Counter : 3.27}

Questions from the Committee:

SENATOR JERGESON What has prompted the Bureau of Reclamation and Western Area Power Administration to advocate this reversal?

Mike Murphy Cost and budget reduction efforts. The cost associated with both the wheeling as well as the allocation of power.

SENATOR JERGESON So when Congress passes a budget resolution each session, the agencies are instructed to come up with a plan that would meet certain targets and goals that would balance the budget, and that's what they're responding to when they come up with this proposal?

Mike Murphy Yes. Basically the Bureau of Reclamation, for example, has always had those wheeling charges built into their budget. Essentially they're working on trying to reduce their budget or maintain an existing budget based on cost increases by reduction of some cost associated in this case with these power locations.

CHAIRMAN JABS Is this separate from WAPA? Are all prices going to go up or just Pick Sloan?

Mike Murphy This is specifically targeted towards and addressing the issue associated with these Pick Sloan Basin irrigation projects. As far as I know, this is not impacting other preferred customer power rates.

SENATOR HOLDEN My home place is on the Buffalo Rapids Project, which is pumped. What would that do per acre cost on my place?

Mike Murphy Buffalo Rapids Project is actually one of those least impacted. The increase there depending upon whether you're in Buffalo Rapids one or two would be between four and six dollars per acres.

Closing Statement:

REP. STORY There isn't a whole lot more to add. I have a little information here if someone wishes to carry the bill out of the committee.

{Tape : 1; Side : A; Approx. Time Counter : 3.30}

HEARING ON HJ 26

Sponsor: REPRESENTATIVE ROD BITNEY, HD 77, KALISPELL

Proponents: Charles Samuelson
Patrick Heffernan, Montana Logging Assoc.
John Bloomquist, Montana Stock Growers
Don Allen, West Environmental Trade Assoc.
Carl Schweitzer, Montana Wood Products
John Youngberg, Montana Farm Bureau

Opponents: NONE

Opening Statement by Sponsor:

REPRESENTATIVE ROD BITNEY, HD 77, distributed some handouts. This deals with a dramatic amount of road closures and destruction that is currently going on throughout the West and in Montana. We're seeing a lot of it in northwest Montana. The map of the United States is yellow and red. Yellow denotes private land in the United States and red denotes Federal Land as a percentage of the county and breaks it down. **SEE EXHIBIT (ags54a01)**. On the Montana map, green shows Federal Forest Land; there are 10 national forests within the boundaries of Montana. Glacier National Park is denoted as purple. The Indian Reservations are brown and the little blue dots are state section lands. **SEE EXHIBIT (ags54a02)**. Including the reservations, over 30% of Montana is Federal Land. Flathead County, the second largest county in Montana, is larger than the entire state of Connecticut and also several other eastern states, including the District of Columbia. Montana has more than three times the geographic square miles of New York State, which has less than 3% federal land.

The dramatic impact of Federal Lands on the west is well known. There are 737 million acres of forested land in the United States and it covers approximately one third of our land. This nation has created the largest legally protected wilderness area in the world. At the same time, we are able to sustain a highly productive wood products industry. The Federal Government owns approximately two thirds of western Montana. These are administered by the U.S. Dept. of Agriculture and Forest Service. The colored area in Flathead County indicates Federal Land; 85%

of Flathead County is government land. That leaves us 15% for a jobs base and also a tax base.

There has been a dramatic change in Forest Service management over the last number of years. There has been a national goal to get away from timber harvests and they are virtually shut down. Since 1980, twenty four small private mills have gone out of business in Montana. This is a result of not having access to the timber sales any more. In the past, we've tried to maintain a multiple use. Now it seems like there's a trend that becomes very preservationist and we're basically shut out of the land. It has a very serious and direct impact, both economically and also recreationally. In our area we've always enjoyed the privilege and depended on hiking, camping, hunting, berry picking, Search and Rescue operations, snowmobiling, positioning equipment for firefighting for managing these forests. Now a lot of this is going away.

In the ten national forests within the State of Montana, two thousand miles of roads are scheduled for destruction or obliteration. In the Flathead National Forest, they are scheduling 650 miles of roads for destruction. In the last four years, they've already obliterated nearly 200 miles. These are roads we've enjoyed for many years for a number of different purposes. We have over 2.3 million acres within Flathead National Forest. Over half of that is wilderness under Dept. of Interior, primarily Glacier National Park. That leaves less than 50% open U.S. National Forest Land. We're losing access, both through the road closures and destructions. There are an estimated 6000 gates just in the U.S. Forest Service in Montana, so it's hard to fathom there are that many roads blocking access.

We're trying to have a reasonable approach to this. We understand there are sensitive areas for fire or endangered species, in particular the grizzly bear and the bull trout. There's conservatively estimated maybe 500 or up to 1,000 grizzly bears in northwest Montana. We're having a serious bear problem. Nearby we have the Kootenai National Forest the Flathead National Forest, and Lolo National Forest. In just portions of these in the northwest, there are over four million acres of forested land for habitat for wildlife. Since the advent of dramatically minimized timber sales, there isn't the grass, browse, bulbs or things of this nature that are the primary diet of the bears. They're coming into town and into the surrounding areas.

Also, as a loss of access to the Federal Lands, we're seeing a very dramatic impact on private lands. There's more logging going on in there, so it downgrades the aesthetics of the area. We used to be able to do select timber cuts, maybe thirty miles away where nobody really saw it. This also helped the habitat.

Last summer alone, we had over 200 incidents or bear reports in close proximity to town in Flathead Valley. They were primarily black bear but there was some grizzly bear. These bears are coming to town to eat, they are raiding garbage and dog food and whatever else.

It seems quite ironic to me, if there's over four million acres of forested land, why do these bears have to come to town? It's a two fold reason. There are more bears than science indicates and there isn't the food source. I passed out a pamphlet from Fish, Wildlife and Parks and U.S. Wildlife Service. **SEE EXHIBIT (ags54a03)**. The back of that shows that conservatively there are 35,000 grizzly bears in North America. Maybe we only have 500 or 1,000 in northwest Montana. Most of these bears live in Alaska and Canada, because that's where the food source is. They rely primarily on the salmon fisheries for their food source and so they are flourishing. In Siberia there is estimated over 100,000 grizzly bears.

Another problem we're having with the road obliteration is that there's dramatic sedimentation and downgrading of the watersheds. There's a massive pullout of culverts; now we have the bull trout on the threatened species. Our bull trout problem is that Fish, Wildlife and Parks introduced lake trout in the Flathead Lake. They're very predatory and eat all the fingerlings. In the name of endangered species, we're getting greater takings of these lands. It's a very significant problem.

{Tape : 1; Side : A; Approx. Time Counter : 3.43}

Proponents' Testimony:

Charles Samuelson retired from Flathead National Forest Service in 1985. Read written testimony. **SEE EXHIBIT (ags54a04)**. **EXHIBIT (ags54a05)**, **EXHIBIT (ags54a06)**, **EXHIBIT (ags54a07)**, **EXHIBIT (ags54a08)** and **EXHIBIT (ags54a09)** are photos referred to in the written testimony. The first two pages of photos take place in the North Fork of the Flathead on the west side of Glacier Park. The Mathias Creek and Cole Creek drainage was twelve miles and 41 culverts were put under contract to be excavated. That particular creek is closed year round as a bull trout spawning stream. This was on relatively steep ground. After the culvert was removed, there were mud banks on the left. The end of the culvert was fifty five feet down slope from the road bed, so there was a lot of dirt moved. Montana Fish and Game issues the 124 permits for this. We have a really heavy snow pack this winter. The first two pages were done last summer. This summer is probably going to tell a pretty sad tale on sedimentation.

They had a lot of sedimentation when they took it out because they weren't required to divert the water so the equipment was working in the creek. A private logger doing something like this would have to divert the water.

On the third page, that particular culvert was in the Lolo Forest and under a 30 feet deep fill. The top picture was taken in the fall; the second picture taken in the spring after runoff and you can see the amount of sediment movement. The fourth page of photos is just outside of Big Fork in what they call Crane Mountain between Swan Lake and Flathead Lake. That looks pretty good. The ground is pulled back, grass is seeded and has straw on it. The second photo is looking up stream. The third photo is the next spring after spring runoff. They lost probably between 50 and 100 cubic yards of soil that went downstream towards Swan Lake. In the bottom photo, the engineer was ordered to take the back hoe in there and pull the cut banks down. You can get an idea of how much sediment went downstream.

Patrick Heffernan, Montana Logging Assoc. I was with Mr. Samuelson the day he took the pictures on page one. I've been following this issue pretty closely through my Association. I was shocked with the risks the Forest Service was taking with soil and water resources. I direct your attention to the resolution itself, because that's the meat and potatoes of this bill before you. In Item 1, line 11, page 2, the goal is for this body to "urge the immediate repeal of the administration's road moratorium". Maybe I should explain what that's all about.

Currently we are on the nation wide interim rule for prohibition of any new road construction in any roadless areas in National Forests. However, that interim goes a little further than the title might suggest. It also creates new definitions for roads, system roads and arterial roads. During this 18 month period we're going to see further dismantling of access infrastructure in these national forests. We believe that may lead to further extension of roadless areas without due process. Line 13, page 2, "existing roads are a valuable and necessary capital investment in public lands that should not be lost or destroyed". That is right on the money. These roads are necessary for all kinds of things, not just for timber harvest. There are a lot of other users who need access to the forest.

John Bloomquist, Montana Stock Growers Assoc., this is a road bill I can support wholeheartedly. **REP. BITNEY** highlights one of the big problems with road obliterations and lack of access on public land and particularly, in this instance, on the Forest Lands. The Federal Government is obliterating their roads and relying more on county roads or other roads to provide access. This concentrated access is going to have ramifications down the

road on what kind of activities can occur in the forest, and lead to more conflicts on the periphery between public and private lands. I wish this resolution could go further. There's not a lot sometimes the state can tell the Federal Government on certain issues.

There is one area the state does have some authority on the Federal Government and that is the area of water quality. Federal agencies are complying with state water quality law and water quality standards. We can look at the example of what was approved under a 124 permit. That should raise some concern. A private operator, whether a logger or somebody installing a head gate or culvert under a 310 permit, wouldn't be able to do it that way. If they did, they would probably be in violation of the permit and water quality standards. EPA has disapproved one of Montana's water quality standards on short term authorizations, which are vitally important to 310 permits and a 124 permit. I don't know how Federal Government can say on one hand you can't have short term exceedence of water quality and on the other hand, allow this sort of activity. I wish this resolution would go further.

This is part of the big picture on roads. It's not just lack of access across public land to private land. A lot of what's going on is a closure of access within the public land and the Forest Service. If the Federal Government is allowed to close their roads more and more, it's going to fall back on the counties or other roads that go to public land to receive the pressure.

Don Allen, Western Environmental Trade Assoc. WETA did intervene in the lawsuit that was brought by the environmental groups against EPA for not making sure Montana had looked at their water quality standards. Some of that has been resolved. There is a bill going through that addresses some of those not resolved. Others are being discussed. We have a problem with the Federal Government making rules and making sure people get penalized, then telling the Montana Legislature they have 90 days to correct something during this session that they took a long time to look at themselves and respond to. It's sort of a double standard. WETA has 24 different associations that cut across the whole spectrum of outdoor activity; recreation, agriculture, timber, and all of the people who not only work in the natural resource industries but also enjoy playing in the forest for recreation. The road closure issue is a serious one. It's one we think Federal Government has been very heavy handed in, making the top down decisions like on a lot of other initiatives that have been put forward by the Federal Government over the last three or four years. This is another one of those.

Carl Schweitzer, Montana Wood Products Assoc. As I sat in this room, I was imagining this room as kind of like a forest that got closed off, there's nothing moving in here, no air or anything. We support this resolution and ask that you Do Pass it.

John Younberg, Montana Farm Bureau, one aspect of this road closure nobody has touched on yet is the cost of retraining and finding new jobs because as **REP. BITNEY** mentioned, there's hundreds of gates up there on the forest. What he didn't mention is the thousands of cattle guards that are going to have to be retrained to find other jobs.

Informational:

Maggie Pittman, Legislative Affairs Coordinator for the Forest Service in Montana, is not pro or con for this resolution but is here merely to try to answer questions the committee might have. She's heard this particular issue come up several times throughout the session and finds it begs the question that perhaps you might want us to appear before you in more of a detailed informational context to give you some science in some of the programs the Forest Service is employing.

Opponents' Testimony: NONE

{Tape : 1; Side : A; Approx. Time Counter : 4:00}

Questions from Committee Members and Responses:

SENATOR HOLDEN didn't realize the Forest Service tore these roads apart once they were established. When a lumber contract went out, did the taxpayers pay to build a road into these lumber contracts? (Turn Tape)

Patrick Heffernan There's a fairly complicated procedure you've probably heard about in the news these past few years because the procedure has now been canceled by the Federal Government. The Purchaser Road Credit System was set up exactly for that purpose, to build capital improvements, mainly roads, on the National Forests. Some of these roads cost over \$50,000 per mile to build. Now we're taking them apart and that capital expenditure is being depreciated instantaneously. It's a great disservice to the American public.

SENATOR HOLDEN We have taxpayers paying to put the road in to an area. What's your understanding why the Forest Service would want to tear that out? I'm thinking these trees are going to regrow, there's going to be other stands in that drainage that might need to be cut. What did the Forest Service tell you is

the rationale for tearing these roads out after we paid to put them in?

Patrick Heffernan They're under court order to reduce road density within the area. That was a 1994 court case that was heard in the Ninth Circuit Court brought by Alliance for Wild Rockies, Friends of the Wild Swan, and some other plaintiffs you have probably heard about in these various environmental suits. Their argument was the amount of road network within the Flathead National Forest was causing an affect on the listed grizzly bear. The court order was to reduce the road density. The recipe that came out in Flathead National Forest plan amendment 19 required the reduction of road density to occur both with gates and with complete removal of the road system. It's been a very difficult thing for them to do. I appreciate the concern the Forest Service has with trying to take away their own livelihood.

SENATOR HOLDEN You're saying the Forest Service themselves aren't really the ones that initiated this process. They're doing so by court order?

Patrick Heffernan That is correct. It is a court order that is the direct result of the consultation process the Forest Service had to go through with the U.S. Fish and Wildlife Service over listed species under the endangered species act.

SENATOR HOLDEN Was that ever appealed to the U. S. Supreme Court?

Patrick Heffernan It hasn't been there yet, but there's a good chance things might happen with the public outcry against this road destruction.

SENATOR JERGESON On line 29, page 1, I see someone in the House made an amendment striking the word "one" and inserting "another", "another stated purpose of the moratorium". I'm trying to find where the first stated purpose is. The first place there's any mention in this document of a moratorium is on lines 26 and 27.

REP. BITNEY There is an eighteen month moratorium on any new road construction by the Forest Service, on lines 25 and 26. There's two points, the eighteen month moratorium and the other one on line 29 is the implication that, in essence, it's created more de facto wilderness, or setting it up for much more additional wilderness.

SENATOR JERGESON I can identify that stated purpose of the moratorium by the language in lines 29 and 30, but I don't see what other stated purpose there is.

REP. BITNEY Let me check into that. I don't know for sure why that change was made.

SENATOR JERGESON Some of these roads were originally constructed and may have cost as much as \$50,000 a mile. Has there been pressure on the Forest Service to analyze the cost of building roads and whether or not that is a justified expenditure of taxpayer dollars?

REP. BITNEY Yes, that's a very definite consideration. For every dollar the Forest Service invests in a road, they lose money on it. State Land makes five to six dollars for every dollar they invest. For every dollar private, like Plum Creek invests, they make ten dollars. The Forest Service is caught in the middle. There are all these endless environmental appeals that create a tremendous cost. That's one of the big reasons they aren't considered profitable by whatever accounting system.

SENATOR JERGESON When Congressmen pressure the Forest Service about the cost of roads, might that be one reason the Forest Service is looking at a moratorium to assess those costs and benefits?

REP. BITNEY It could be but I don't think it's really valid to me for a very practical point of view. I can appreciate why there's sensitive areas if there's a breeding area for certain endangered species or weed control at certain times of the year. There's no evidence this affects grizzly bears. There's not a grizzly bear alive today nor for the previous ten generations that knows anything but a Forest Service road. Throughout most of the United States, there's tremendous prosperity and I think the Forest Service for whatever political pressures have just not lobbied or acquired the money to maintain these roads. I think that's the excuse to destroy them. For the last 50 plus years, they've been a very strategic resource for this country.

SENATOR JERGESON Your pictures of the environmental consequences of obliterating roads or pulling culvert are pretty graphic. What kind of damage occurs building the road in the first place?

REP. BITNEY Historically there have been some mistakes. Right now the Forestry practices are excellent. BMPs, that's the Best Management Practices, are at the 98 percentile; it's incredible compliance. Any new road has to have more serious consideration to stream side management that it did ever in the past. It's

somewhat negligible if it's properly done. Our problem is it's just wholesale shutdown and obliteration. It's just incredible to imagine 650 miles of roads being destroyed. Why can't they just let them grass over? Why is there money to destroy these roads when there's not money to maintain them?

SENATOR HALLIGAN Under Federal Government law, in lines 25 and 26, what specific law is Congress or the Forest Service using to close or obliterate the roads. You talk about the Multiple Use Act and that doesn't relate to the closure.

REP. BITNEY That's a policy issue rather a Congressional Law.

Maggie Pittman It is a policy. The Chief of the Forest Services put out what he called his National Resource Agenda. The Agenda has four arms: watershed restoration, forest health, recreation and road policy. He's trying to redirect the efforts of the Forest Service. This moratorium is a time out to do an inventory. Granted most of those National Forest System roads nationwide are in the western states, but it's an opportunity to take an inventory and figure out which roads are needed for commodity uses, recreational uses and such and be able figure out which ones are not needed on the inventory any more for things like wildlife habitat.

{Tape : 1; Side : B; Approx. Time Counter : 4.14}

SENATOR HALLIGAN I assume that roads are being closed from the top down, not from the gate up.

Maggie Pittman I don't know. The Flathead National Forest is probably the first to be making a lot of these road closures. There are different options and I think that's part of the whole process to determine how, when, where, all that.

SENATOR HALLIGAN I thought when they did a contract to bid on some timber, the Forest Service tried to include the cost of building that road in whatever they were going to get for the bid on the timber. When Congress got involved, they saw they weren't getting enough on the bids to cover those costs and that's why they're taking a second look. Just like we would when we have to maximize our costs on State Lands or on Trust Lands; we have to get the highest market value we can. If you raised the price of the forest product, would it be able to pay for the cost of that and is that something in that equation. It's not just the taxpayer's name if somebody bid on it and construction was supposed to be included in the cost of that bid.

Patrick Heffernan There are two ways those road costs were absorbed. They were absorbed in the bid price a timber company would pay for the timber in the timber sale. As part of that process, there was also this Purchase Road Credit System or capital improvements. So those roads were in effect subsidized with appropriated dollars because in a lot of cases, the timber sale itself wouldn't pay for the extent of the capital improvement. The Forest Service builds higher standard roads than the State, for example, and when their costs are exceeding \$50,000 per mile, you have to have a lot of trees in that initial timber harvest to pay for the whole road system. The way the Purchaser Road Credit System was meant to work was the road credits were used to develop the whole area that was in part of the Forest Plan and then future timber harvests using that same road system would in effect pay back that loan to the American people.

SENATOR BECK In my area, frequently they just close off the mouth of the road. They very seldom go in and actually destroy the road. Why the policy all of a sudden of the U. S. Forest Service to keep the public off the roads? I'm having a hard time with it; I don't think the public was destroying all that much ground and environment and endangered species.

Maggie Pittman You've probably all seen the Kelly humps across the road where we couldn't afford a gate or didn't want to put one in. That's been our traditional way of closing off roads. It shifted into an arena of actually putting back the road bed itself and getting back to a natural contour. I'm trying to speak to the general direction the Forest Service has taken that's more of restoration emphasis, watershed restoration and forest health. The grizzly bear study that's been taking place in the South Fork of the Flathead indicated some of those road prisms were too high of a road density and those prisms didn't allow grizzly bears to travel through a whole contiguous area of this natural land.

SENATOR BECK I've seen grizzly bear cross the road; I didn't know that was a barrier. I guess I know what you're trying to do, but it sends a message to me that you're not going to log that anymore for a heck of a long time. In our area, they leave the roads open. They close them off to the general public in certain areas. I would certainly hope we're going to harvest some trees.

Maggie Pittman I feel like there's a real gap in information from our agency. There's so much science and social kind of interaction and biology all involved in this. We're always looking for avenues to get that information out so it's

understandable. There are so many questions relative to this whole issue that it makes it difficult to make a decision.

SENATOR HALLIGAN Is there anything in Congress right now, a bill or amendments to bills being proposed to address the moratorium issue?

Maggie Pittman Not that I know of. I have been keeping track of that and haven't seen anything recently related to policy. The Chief intends to take the full 18 months to study it and take public comments. After that 18 months is over, we look for some kind of implementation, whatever that may be.

SENATOR HALLIGAN There's no denial of access during this time. You aren't going to build any more roads and keep obliterating others, but you can still get in there, walking or riding a horse.

Maggie Pittman That moratorium basically says that no new road construction can occur in current roadless areas. It's mostly moratorium on any new roads. It doesn't say anything about maintenance of current roads but rather to inventory current roads.

SENATOR JABS You're doing this on a court order. Couldn't you get a stay on this until it's resolved in the Supreme Court? As soon as the order came out you started destroying the roads.

Maggie Pittman I think you're referring to the South Fork Grizzly Bear study on the Flathead.

SENATOR JABS There was the statement that there's a court order to close these roads. If it's appealed to the Supreme Court, generally there's a stay until the final ruling has been made. But you went ahead and started working as soon as the Ninth Court ruled on it.

Maggie Pittman deferred to Patrick Heffernan who is more familiar with the court order than she is. I'm not sure if a stay was requested from the Supreme Court or not. I don't know if they were required to start on an immediate date.

CHAIRMAN JABS Why didn't they just close it? Why did they start tearing out the culverts and destroying them forever? Was the court order also to destroy the roads and put it back the way it was?

Patrick Heffernan It's a complex situation. The court order required that until adjustments were made to the Flathead

National Forest Plan, the Forest was out of compliance with it's obligation to recover the grizzly bear under the Endangered Species Act. As a consequence, Fish and Wildlife Service had to revise their biological opinion as they are required to do under Section 7 in the Endangered Species Act. They required the Flathead National Forest to amend their Forest Plan to reflect the changes made in their biological opinion as a result of this court order. The U.S. Fish and Wildlife Service prescribed changes to road density standards in the Flathead National Forest. The Forest, as a reaction to that, had to make amendment to their forest plan to reduce road density. They had to also reduce their allowable sale quantity of timber because that was also having a detrimental affect on the grizzly bear, according to the most recent biological opinion.

We have a situation where we're backing out of previous management obligations we made and as we do that on the Flathead, the roads are being closed systematically and we have a shrinking timber base. That's where our concern is, because we're going to have less to work with in the future.

Closing by Sponsor:

REP. BITNEY This is the tip of the iceberg. We're a small rural population in an immense geographic state. A lot of people who live in the cities don't have a clue of the immensity of these forests. They need to be properly managed. With the preservationist movement, we're shutting it down and we are getting a very high fuel loading. That's where you get windfall and brush and we're going to have a serious problem with wild fires. These wild fires could be thousands of acres. Many of these roads are gated right at the highway and you can't get in. You've heard about abuses by ATV's and four wheelers. In some cases they're ATV's in illegally to get their elk because they can't drive in and there's no way they can pack out an elk for two miles.

We're getting a high number of predators in our area. The wolf program has been so successful that when I was home on interim break, I saw a video taken off a ranchers doorstep just outside of Kalispell. It showed a pack of wolves eating newborn calves. This rancher had 20 cows and calves that were unaccounted for. We're seeing an incredible increase in the number of mountain lions. Four weeks ago, **REP. LAWSON's** next door neighbor's full grown horse in a corral was attacked by a mountain lion. The mountain lion didn't get very far, but we're seeing numerous attacks. All around Flathead Lake, people have to be very vigilant of small children because of the many mountain lions around there.

Clear cutting has a very bad connotation, but when I go into the woods to go hunting or berry picking, that's where I go. That's where the best berries are. That's also where the bears go, and the deer and elk because that's where the browse is. We have bears all over. They're in Big Fork all the time. They have collars on them that show how they regularly go in, eat apples in the orchards in town and go back out. I'm skeptical of the science of the road deal. High traveled roads may be a concern during breeding season.

I'm trying to raise the debate a little bit and educate people. I'm not against road closure or more wilderness, but we are seeing a wholesale shut down of the Forest Service. My county is 85% government land. We are like a little island and we are trying to create our tax base and job base. We have close to 3,000 manufacturing jobs in our area that are directly dependent on natural resources. They are a very clean industry and we export most of these products. As I mentioned, 24 small mills have gone out of business since 1980. I spoke to the chief bean counter for School District 5. In just this last year, we are down 70 students. Lumber jobs paid over \$10.00 an hour and now they're being replaced with service jobs. These people had to leave the area and it hurts our schools.

I appreciate what Maggie has to go through. She's caught in the middle, getting directions from one side and shot at from the other. Mr. Samuelson is one of hundreds of retired Forest Service Rangers and Supervisors in the area that are very critical because it's just not good land management. Throughout the Forest Service, we are not seeing land managers, we are seeing scientists, biologist, hydrologists, people with a very specialized scientific scope. Weed control is a serious concern and a reason to close off a road or a gate, but there are certain times of the year that are more sensitive. People can have higher ethical standards. If you take your ATV out, wash your vehicle before you go up there. Things like this are very practical ideas.

SENATOR JERGSON will carry to the Senate.

EXECUTIVE ACTION ON HB 444

SENATOR BECK had amendments to HB 444. **EXHIBIT (ags54a10)**

Motion: **SEN. BECK** moved that **AMENDMENT HB044402.ADS BE ADOPTED.**

SENATOR DEVLIN If this got to ten cents, it would be around \$96,000 for 120,000 head.

SENATOR BECK Right now in the General Fund there is \$45,000 a year for \$90,000 over the biennium.

SENATOR DEVLIN That's more or less a seed operation to try to get this off the ground.

Vote: Motion **carried unanimously.**

Motion/Vote: **SEN. JERGESON** moved that **HB 444 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

SENATOR DEVLIN to carry to Senate.

ADJOURNMENT

Adjournment: 4:37 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags54aad)